



DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA-2021-P-1154]

Determination That THEO-DUR (Theophylline) Extended-Release Tablets, 100 Milligrams and 300 Milligrams, Were Not Withdrawn from Sale for Reasons of Safety or Effectiveness

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA, Agency, or we) has determined that THEO-DUR (theophylline) extended-release tablets, 100 milligrams (mg) and 300 mg, were not withdrawn from sale for reasons of safety or effectiveness. This determination means that FDA will not begin procedures to withdraw approval of abbreviated new drug applications (ANDAs) that refer to this drug product, and it will allow FDA to continue to approve ANDAs that refer to the product as long as they meet relevant legal and regulatory requirements.

FOR FURTHER INFORMATION CONTACT: Nisha Shah, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6222, Silver Spring, MD 20993-0002, 301-796-4455, Nisha.Shah@fda.hhs.gov.

SUPPLEMENTARY INFORMATION: Section 505(j) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 355(j)) allows the submission of an ANDA to market a generic version of a previously approved drug product. To obtain approval, the ANDA applicant must show, among other things, that the generic drug product: (1) has the same active ingredient(s), dosage form, route of administration, strength, conditions of use, and (with certain exceptions) labeling as the listed drug, which is a version of the drug that was previously approved, and (2) is bioequivalent to the listed drug. ANDA applicants do not have to repeat the extensive clinical testing otherwise necessary to gain approval of a new drug application (NDA).

Section 505(j)(7) of the FD&C Act requires FDA to publish a list of all approved drugs. FDA publishes this list as part of the “Approved Drug Products With Therapeutic Equivalence Evaluations,” which is known generally as the “Orange Book.” Under FDA regulations, drugs are removed from the list if the Agency withdraws or suspends approval of the drug’s NDA or ANDA for reasons of safety or effectiveness or if FDA determines that the listed drug was withdrawn from sale for reasons of safety or effectiveness (21 CFR 314.162).

A person may petition the Agency to determine, or the Agency may determine on its own initiative, whether a listed drug was withdrawn from sale for reasons of safety or effectiveness. This determination may be made at any time after the drug has been withdrawn from sale, but must be made prior to approving an ANDA that refers to the listed drug (§ 314.161 (21 CFR 314.161)). FDA may not approve an ANDA that does not refer to a listed drug.

THEO-DUR (theophylline) extended-release tablets, 100 mg and 300 mg, are the subject of ANDA 085328, currently held by Merck & Co., Inc. (previously held by Schering Corporation),¹ initially approved on April 12, 1979. THEO-DUR is indicated for the treatment of the symptoms and reversible airflow obstruction associated with chronic asthma and other chronic lung diseases, e.g., emphysema and chronic bronchitis.

In a letter dated March 18, 2003, Schering Corporation requested withdrawal of ANDA 085328 for THEO-DUR (theophylline) extended-release tablets. In the *Federal Register* of May

¹ In 2009, Schering Corporation merged with Merck and is now referred to as Merck & Co., Inc.

5, 2004 (69 FR 25124), FDA announced that it was withdrawing approval of ANDA 085328, effective June 4, 2004.

Lachman Consultants submitted a citizen petition dated October 25, 2021 (Docket No. FDA-2021-P-1154), under 21 CFR 10.30, requesting that the Agency determine whether THEO-DUR (theophylline) extended-release tablets, 300 mg, were withdrawn from sale for reasons of safety or effectiveness. Although the citizen petition did not address the 100-mg strength, that strength has also been discontinued. On our own initiative, we have also determined whether that strength was withdrawn for safety or effectiveness reasons.

After considering the citizen petition and reviewing Agency records and based on the information we have at this time, FDA has determined under § 314.161 that THEO-DUR (theophylline) extended-release tablets, 100 mg and 300 mg, were not withdrawn for reasons of safety or effectiveness. The petitioner has identified no data or other information suggesting that this drug product was withdrawn for reasons of safety or effectiveness. We have carefully reviewed our files for records concerning the withdrawal of THEO-DUR (theophylline) extended-release tablets, 100 mg and 300 mg, from sale. We have also independently evaluated relevant literature and data for possible postmarketing adverse events. We have found no information that would indicate that this drug product was withdrawn from sale for reasons of safety or effectiveness.

Accordingly, the Agency will continue to list THEO-DUR (theophylline) extended-release tablets, 100 mg and 300 mg, in the “Discontinued Drug Product List” section of the Orange Book. The “Discontinued Drug Product List” delineates, among other items, drug products that have been discontinued from marketing for reasons other than safety or effectiveness. FDA will not begin procedures to withdraw approval of approved ANDAs that refer to this drug product. Additional ANDAs for this drug product may also be approved by the Agency as long as they meet all other legal and regulatory requirements for the approval of

ANDAs. If FDA determines that labeling for this drug product should be revised to meet current standards, the Agency will advise ANDA applicants to submit such labeling.

Dated: June 10, 2022.

Lauren K. Roth,

Associate Commissioner for Policy.

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